



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

October, 2003

Scheduled for committee review
MONDAY, October 13th, 2003
Statehouse Room #116

Reference
XXVI IAB No. 06(09/17//03)
XXVI IAB No. 07(10/01/03)

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ADMINISTRATIVE SERVICES DEPARTMENT

No Rep.

Customer councils, IAB Vol. XXVI, No. 06 ARC 2777B,
ADOPTED.

House File 534 §11 calls for the creation of a customer council whenever the department finds that it should be the sole provider of a particular service (called a “utility”) and which is be funded by the agency receiving that service. The council will ensure that the department provides the service that meets the needs of the client agency.

Under these rules membership on a council consists of nine state agency representatives (3 each from large, medium and small agencies), a judicial and legislative branch representative and nonvoting ex-officio members; a public representative and a union representative

representing state employees will be appointed by the voting members of the council. Each member will serve a two year term.

AGRICULTURE DEPARTMENT

9:00

Farm deer, IAB Vol. XXVI, No. 07, ARC 2791B,
EMERGENCY.

House File 624 specifically establishes the principle that farm deer are livestock and are “principally” regulated by the Department of Agriculture And Land Stewardship; the Act has transferred the regulation of farm deer from the Department of Natural Resources to the Department of Agriculture. The Act specifically empowers the department to adopt rules relating to the importation, transportation, and disease control of farm deer. Farm deer can include fallow, mule or white tail deer, sika and elk. The term does not

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include any free range animals. Currently there are six hunting preserves and 300 breeders.

H.F.624 establishes a farm deer council within the department. This advisory group monitors the production and monitoring of farm deer and advises the department concerning health issues relating to farm deer and the administration of this program generally.

The transfer of authority has not caused a significant change in the actual regulation---except for the various fees required. Under prior statute (§484B.4) the licensing fee was \$200; this is now raised to \$1000. Inspection fees for new fencing are set at \$35 per hour and veterinary inspection fees at \$50 per hour. An annual chronic wasting disease fee of \$100 is also imposed. All fees collected by the department under this chapter are retained by the department to pay for the costs of administering this program and other programs relating to farm deer.

DENTAL EXAMINERS BOARD

9:10

Dental hygienists: public health supervision, IAB Vol. XXVI, No. 06, ARC 2783B, NOTICE.

As provided in Iowa law, under a limited set of circumstances a dental hygienist may provide certain educational, therapeutic, and preventive services when the dentist is not present.

The Dental Board now proposes to allow a dentist to provide “public health supervision” to a dental hygienist who is providing hygienist services in a public health setting. Previously in March the board attempted rulemaking in this area, in response to a petition for rulemaking. That proposal would have allowed the hygienist to provide preventative services to a patient who has never seen the supervising dentist. It was noted this was a significant expansion in the current practice of a dental hygienist. That March proposal has now been terminated as part of this re-noticing.

This new rulemaking provides much more detail than the March proposal. Under this new rulemaking a hygienist with three years clinical

experience (2500 hours over 5 years in March proposal) may enter into a public health supervision agreement with a dentist which will allow the hygienist to provide specified services in schools; Head Start programs; federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; and federal, state, or local public health programs. These enumerated sites are narrower than the far more open practice locations set out in the March proposal.

The supervising dentist must be available to consult with the hygienist and specify the locations where the hygiene services will be provided. Prior to obtaining any additional hygiene services, the patient must be seen by a dentist within the previous 12 months.

The dentist must also provide age and procedure specific standing orders for the performance of dental hygiene services; under the standing orders the hygienist may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services. The dentist is not required to examine the patient prior to the provision of these services. This is significantly broader than the March proposal, where a hygienist was allowed to provide only “preventative” services without examination by a dentist.

DENTAL EXAMINERS BOARD

9:10

Dental Hygienists: monitoring nitrous oxide, IAB Vol. XXVI, No. 06, ARC 2785B, NOTICE.

Early in 2001 the board implemented rules to allow a properly trained dental hygienist to administer nitrous oxide inhalation analgesia under the direct supervision of the dentist. The board proposes to take this further and allow the hygienist to observe the patient receiving nitrous oxide, and recognize any adverse reactions or complications by the patient and notify the dentist. The hygienist must be under the *direct* supervision of the dentist and the dentist must dismiss the patient. Direct supervision of the hygienist requires that the dentist be present in the treatment facility, but it does *not*

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require the dentist to be physically present in the treatment room.

DENTAL EXAMINERS BOARD

9:10

Expanded functions, IAB Vol. XXVI, No. 06, ARC 2787B, ADOPTED.

This adopted filing was initially reviewed by the ARRC in June. Under Iowa law a dentist must directly supervise a dental assistant and is “fully responsible” for all acts of the assistant {650 IAC subrule 20.3(2)}. The current system gives the supervising dentist broad discretion in delegating tasks to an assistant, but holds the dentist strictly accountable for the actions of the assistant.

This new provision creates a special category for nine specified “expanded duty” functions which may be performed only if the assistant has completed board-approved training and works under the direct supervision of the dentist. These new provisions do not affect those duties not listed in the rule. The required training is available to dental assistants who are certified by the Dental Assisting National Board or have two years of clinical experience. The training must have a lecture component, a laboratory component if needed, a clinical component all followed by a competency assessment.

ECONOMIC DEVELOPMENT DEPARTMENT

10:20

Jobs retention program, IAB Vol. XXVI, No. 06, ARC 2755B, NOTICE.

House File 683 created a jobs retention program as a component of the jobs training fund program established in Iowa Code Chapter 260F. Under this new program eligible businesses may enter into agreements with local area community colleges to obtain necessary training for its employees. The participating businesses must employ at least 1000 employees represent at least 4 percent of the county’s resident labor force. Additionally, the businesses must invest at least \$15 million to retool

the workplace and upgrade their facilities and provide a commitment that the participating businesses will not move the business out of this state or close for at least ten years. The businesses must provide a match of at least 25% of the training costs.

Applications will be evaluated according to 18 existing criteria for the jobs training program (261 IAC 7.21). To be funded, applications must receive a minimum score of 65 out of 100 points. For example, these weighted criteria include such things as:

- More than 50 percent of the business's sales are out of state, 5 points.
- More than 50 percent of the business's operating expenditures are spent within the state of Iowa, 5 points.
- The number of the business's in-state competitors is low, 5 points.
- The business's products have increased or will increase the business's customer base in Iowa, 5 points.
- The business's products have resulted in or will result in a decrease in the importation of foreign-made goods into the USA, 5 points.
- The majority of the business's suppliers are located in Iowa, 5 points.

This filing also contains an entirely new division: the Grow Iowa Values Fund Assistance. This program will fund workforce training and economic development programs through the community colleges, provided that the intended use by the college meets the requirements established under 261 IAC Chapter 9 (see below). Funds allocated under the workforce training and economic development fund are for use in the areas of advanced manufacturing, information technology and insurance, and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

ECONOMIC DEVELOPMENT DEPARTMENT

10:20

Workforce Training and Economic Development Funds, IAB Vol. XXVI, No. 06, ARC 2745B, NOTICE.

These new provisions establish workforce training and economic development funds for each

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community college; the funds provide training and retraining of Iowa workers. Money made available to this program will be allocated using the most recent distribution formula used for the allocation of state general aid to the community colleges. 70 percent of the moneys shall be used on projects in the areas of advanced manufacturing, information technology and insurance, and life sciences, including biotechnology, health care and nursing care technology. Each individual project is also subject to those criteria established for that particular DED program, such as the Iowa Jobs Training Program (261 IAC Ch. 9) or the Accelerated Career Education Program (261 IAC Ch. 20).

Each community college must submit a two year plan detailing how the funds will be used. Each community college will also submit an annual report detailing the achievements of the program. For job training and retention projects each college must document the state's return on investment for projects funded by grow Iowa values moneys. For accelerated career education and similar projects each college must document the number of enrollees, graduates and the placement of graduates. Beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in its' workforce training and economic development fund unless the grow Iowa values board approves the annual progress report of the community college.

ECONOMIC DEVELOPMENT DEPARTMENT

10:20

Endow Iowa: Grants Program, IAB Vol. XXVI, No. 06, ARC 2753B, NOTICE.

This new program is created in House File 692 to assist in the creation of community endowment funds to meet local community needs. The department is to approve a "lead philanthropic entity" to encourage the development of qualified community foundations. This entity must be state-wide nonprofit organization with at least 40 members. Membership must consist of

organizations whose principal function is to make grants within the state of Iowa. A request for proposal to select this entity will be developed as part of this rulemaking.

The entity may receive a grant from the department in order to award "endow Iowa grants" to new and existing qualified community foundations and to community affiliate organizations. No more than three grants may go to any one county in a single year. Grants may be for no more than \$25,000, unless it is for a multi-county or regional purpose. The local entity must provide a dollar-for-dollar match. Administrative costs are limited to 5%.

These local foundations must meet the standards of the national council on foundations. These standards are contained in a seven page document issued by the Washington-based national council. They are straight forward and basically ensure that the local entity is a properly operating charitable institution. Generally speaking, a local foundation must be legally established as a charitable, non-profit entity; it must be local, serving an area no large than one state, although it could serve portions of several states (e.g.: the Quad Cities). The governing board must be broadly representative of the whole community, and serve without compensation (except for the CEO). The foundation must have comprehensive policies for generating, utilizing and safeguarding charitable contributions; and policies for awarding and administering grants. The board must have the ability to modify any restriction or condition on the distribution of funds if the restriction or condition becomes, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

House File 692 sets out six criteria to evaluate local applications:

- The demonstrated need for financial assistance.
- The potential for future philanthropic activity in the area.
- The proportion of the funding match being provided.
- For community affiliate organizations, the demonstrated need for a community affiliate endowment fund in that area.

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- The identification of community needs and how additional funding will address those needs.
- The geographic diversity of awards.

ECONOMIC DEVELOPMENT DEPARTMENT

10:20

Endow Iowa: tax credit program, IAB Vol. XXVI, No. 07, ARC 2797B, NOTICE.

House File 683, §70 has appropriated \$1 million for the 2004-2007 fiscal years to fund an Endow Iowa tax credit. The department will authorize tax credits to qualified individuals providing an endowment gift to a qualified community foundation (see discussion: ARC 2753B *supra*) for a permanent endowment fund. these tax credits will be allowed against income and the moneys and credits tax. Credits will be equal to 20 percent of the endowment gift.

Authorized credits cannot not exceed an aggregate total of \$2 million. The maximum amount of tax credits granted to a single taxpayer shall not exceed 5 percent of the total. Applications in excess of the amount. Available will be prioritized by the date received. The credits may be used for up to five years. 10% of the credits are reserved for endowments related to the Endow Iowa program (see above). Another 10% is reserved for smaller endowments of \$30,000 or less.

ECONOMIC DEVELOPMENT DEPARTMENT

10:20

Enterprise Zone Program-general amendments, IAB Vol. XXVI, No. 06, ARC 2751B, ADOPTED

The enterprise zone program promotes new economic development in economically distressed areas. Up to one percent of the area of a county may be designated an enterprise zone. Eligible businesses (including eligible housing businesses) locating or located in an enterprise zone will receive certain tax incentives and assistance in order to attract productive private investment those economically distressed areas.

Each eligible development business, subject to negotiations with the department, may claim a tax credit up to a maximum of 10 percent of the new investment which is directly related to the construction, expansion or rehabilitation of building space to be used for manufacturing, processing, cold storage, distribution, or office facilities.

ECONOMIC DEVELOPMENT DEPARTMENT

10:20

Value-added agricultural products and processes, IAB Vol. XXVI, No. 07 ARC 2799B, ADOPTED.

House File 692 has revised the current program for value-added agricultural products. Under the Act, in awarding financial assistance the department is to “prefer” producer-owned, value-added businesses and public and private joint ventures with a college or university acquiring assets, research facilities, and leveraging moneys in a manner that meets the goals of the grow Iowa values fund. The current statutory list of projects is now expanded to include such things as the agricultural biotechnology industry, the agricultural biomass industry, and the alternative energy industry. The current rules set out a matrix to calculate the ratio between loans and forgivable loans or outright grants---the higher the award the lower the amount of grants or forgivable loans. That matrix is being eliminated in favor of a simple statement that the nature of the award will be based on the impact of the project and the degree to which the project meets the goals of the program.

EDUCATION DEPARTMENT

9:30

Charter schools, IAB Vol. XXVI, No. 06 ARC 2740B, NOTICE.

A similar rulemaking in 2002 was terminated when the federal government declined to provide funding for the charter school program. That roadblock has now been eliminated with a million dollar federal grant. The actual program is authorized under federal law by Pub.L. No. 107-

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110, Title V. Part B, which provides funding for the creation and evaluation of these schools. These grants may be for up to three years.

To establish a charter school any parent or educator may file an application with the local school board to convert an existing building within the district. The application must be supported by at least fifty percent of the teachers employed at the school and fifty percent of the parents or guardians voting whose children are enrolled at the school. The local school board is required to adopt procedures, criteria, and weighted criteria that will determine whether an application is approved or denied. The school board must, by a majority vote, approve or deny an application within sixty days. A denial may be appealed to the state board.

The state board may approve only ten pilot projects. When approved, a charter school may elect to comply with one or more provisions of Iowa law, but it is exempt from all statutes and rules except that the school must:

- Meet all applicable federal, state, and local health and safety requirements;
- Meet all laws prohibiting discrimination on the basis of race, creed, color, sex, national origin, religion, ancestry, or disability and follow all laws relating to human and civil rights;
- Operate as a nonsectarian, nonreligious public school;
- Be free of tuition and application fees;
- Provide special education services;
- Be subject to the same audits and related requirements as a school district;
- Comply with the student achievement and teacher quality program;
- Comply with laws relating to contracts with and discharge of teachers and administrators;
- Comply with laws relating to the transportation of students.

The department rules set out a review process for these applications, using a series of weighted criteria. The maximum points available will be 100, broken down as follows:

- Mission, purpose, innovation, and specialized focus—10.
- Organization and structure—25.
- Facilities and financial support—25.
- Student achievement—40.

EDUCATION DEPARTMENT

9:30

Funding for children in state mental health institutions, IAB Vol. XXVI, No. 07, ARC 2740B, NOTICE.

Senate File 453 provides funding for the education of children residing in mental health institutions under the control of the Department of Human Services. These institutions include the Mental Health Institute; the Mental Health Institute; the State Training School; and the Iowa Juvenile Home. Each such institution is to submit a program and budget request to the Departments of Education and Human Services. When the program and budget are approved by the Department of Education, funds will be distributed to the Department of Human Services. These state institutions may obtain the necessary services through local school districts or area education agencies

The proposed rules begin with the general proposition that all children residing in state institutions and mental health institutes shall receive “appropriate educational services”, including special education. The actual formula to allocate funding is not set out in the rule, except to say that it is “*similar to the formula used for the determination of funding for local school districts while considering the unique setting of the institutions.*”

The rules do detail the application and funding process, setting out timelines for identifying eligible residents, submitting proposals, budgets and department evaluation. The budget process is determined by a rather mechanical formula set out in the proposal, one formula for students who have an individualized educational program (special needs) and those who do not have an individual program.

EDUCATION DEPARTMENT

9:30

Career academies, IAB Vol. XXVI, No. 07, ARC 2807B, NOTICE.

Pub. Law No. 105-332 amended existing federal provisions relating to vocational education by

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authorizing and making grants available for programs matching two years of secondary education and two years of community college education. Under this concept vocational, career and technical educational programs are made available to high school students, in conjunction with community colleges, that combine academic and job-related training, culminating in an associate (2 year) degree. House File 683, §76 has dedicated funds from the Grow Iowa Fund for the creation of a “career academy”.

A career academy must be approved by both the local school board and community college and formally established by a 28E (cooperative) agreement. The rules call for a sequence of courses with emphasis in mathematics, science, and communications leading to an associate degree, and should utilize work-based and work site learning. Educational staffing is to be provided by secondary and post-secondary faculty.

ENVIRONMENTAL PROTECTION COMMISSION

1:30

Small source exemption, IAB Vol. XXVI, No. 06 ARC 2775B, NOTICE.

The commission, in conjunction with the federal EPA and the regulated industry, have completed a negotiated rulemaking in which all parties agree to the terms of a new exemption from the air permitting requirements in 567 IAC Ch. 22. The exemption is for “small units” where the actual emissions are unlikely to have “environmental or human health consequences”. A small unit will be required to obtain a construction permit or cease operation if it exceeds the specified emission levels.

The proposal details the types and levels of contaminants that are within the threshold for the exemption; these include no more than: 0 pounds per year of lead and lead compounds, 5 tons per year of sulfur dioxide, 5 tons per year of nitrogen oxides, 5 tons per year of volatile organic compounds, 5 tons per year of carbon monoxide, 5

tons per year of particulate matter, 2.5 tons per year of “PM10”, and 5 tons per year of hazardous air pollutants. The phrase “hazardous air pollutants” is defined in great detail in rule 567 IAC 22.100; The term does *not* include high risk pollutants. The holder of the exemption must document conformance and compliance with the specified emission rate limits; this may include the use of specified pollution troll devices or measures.

Additional restrictions are in place for a “substantial small unit,” which is defined as emitting 75% of the small unit thresholds. The commission must be notified when such a unit is constructed or modified. In the event all the substantial small units in a facility cumulatively reach a specified threshold level (detailed in the rule), all of those units must be permitted.

ENVIRONMENTAL PROTECTION COMMISSION

1:30

General revision: water regulation, IAB Vol. XXVI, No. 06 ARC 2775B, NOTICE.

In response to a federal rulemaking pertaining to drinking water the EPC must revise many of its rules in that area. Affected chapters each contain numerous amendments:

- Chapter 40 relating to private and public drinking water supplies;
- Chapter 41 relating to analytical methods and monitoring;
- Chapter 42 relating to public notification of violations;
- Chapter 43 relating to water supplies;
- Chapter 44 relating to the Drinking Water State Revolving Fund;
- Chapter 81 relating to treatment plants;
- Chapter 83 relating to certified laboratories.

ENVIRONMENTAL PROTECTION COMMISSION

1:30

Hazardous air pollutants, IAB Vol. XXVI, No. 06, ARC 2774B, ADOPTED.

The EPC adds 21 new sources to its list of regulated hazardous air pollutants. Numerous manufacturing processes are already listed, these

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additions include such things as PVC production, copper smelting, solid waste landfills and others. The rules apply to major sources of the listed contaminants. Under the rules, a major source is defined as a stationary source or group of sources located within a contiguous area and under common control that emits or has the potential to emit 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. These revisions are based on federal regulation set out in 40 CFR Part 63 Subpart B, implementing the federal Clean Air Act.

ETHICS BOARD

No Rep.

Executive branch lobbying, IAB Vol. XXVI, No. 07 ARC 2815B, NOTICE.

The board proposes to centralize and update its' regulation of executive branch lobbying. The rule distills the statutory definition of "lobbyist" and the variety of exclusions from that term, found in Iowa Code §68B.2(13). The proposal contains a significant amount of detail concerning registration, reporting and the penalties that may be imposed. It also sets out general guidelines to help define reportable expenses, these include:

- Direct communication expenses.
- Time spent researching and drafting proposed legislation, rules, or executive orders.
- Time spent by the lobbyist communicating with executive branch officials and employees for purposes of engaging in executive branch lobbying.

Such expenses are reportable when performed either by the lobbyist or the client. However, organizational newsletters or other informational releases to organization members are not reportable expenses.

The existing rule sets out a brief code of ethics; this code is now being scrapped in favor of a provision providing specific guidance in a number of area. The current prohibition against accepting a contingent fee is retained. The prohibition on contributions during the legislative session (§56.15A) is explained in detail, along with three exceptions. The prohibition against making loans

(§68B.24) and the "ordinary course of business" exception is explained. Also, a significant amount of detail is provided concerning the ban on certain lobbying activities by government personnel (§68B.5A). Lastly, the proposal outlines the prohibition against make false statements or communications.

GROW IOWA VALUES BOARD

11:00

Organization & operation, IAB Vol. XXVI, No. 06 ARC 2747B, NOTICE.

These rules were previously reviewed by the committee, in draft form, at the September meeting. The bulk of these rules is simply "boilerplate"---standard language and policies common to all state agencies, covering such issues as rulemaking procedures, open records procedures and waivers.

The fund will provide financial assistance for business start-ups, business expansions, business modernization, business attraction, business retention and marketing. Portions of the fund may also be used for the value-added agricultural products and processes financial assistance program, and the CEBA program. Although not formally mandated, the rules encourage applicants to consider five general goals:

- Efficient and effective use of land resources and existing infrastructure by encouraging development in areas having existing infrastructure or capacity to avoid costly duplication of services and costly use of land.
- Provision for a variety of transportation choices, including pedestrian traffic.
- Maintenance of local cultural, historical and natural environmental features.
- Conservation of open space, farmland and preservation of critical environmental areas.
- Promotion of the safety, livability, and revitalization of existing urban and rural communities.

HUMAN SERVICES DEPARTMENT

3:10

Preferred drug list, IAB Vol. XXVI, No. 06 ARC 2789B, NOTICE.

House File 619 calls for a "preferred drug list"

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program under the medical assistance program. Under the Act a “medical assistance pharmaceutical and therapeutics committee” is to be established within the department and charged with the responsibility to review the preferred drug list and make recommendations to the department. Those recommendations are to be based on “each drug's clinically meaningful therapeutic advantages in terms of safety, effectiveness, and clinical outcome.” Until the committee is functional the department is to use an existing list developed by a Midwestern state.

The department is authorized to use the “emergency” rulemaking procedures to implement this program.

HUMAN SERVICES DEPARTMENT

3:10

Advanced registered nurse practitioners, Special review, ADOPTED.

This issue was initially sparked by a July emergency filing related to Medipass; this is the third ARRC review. The department hopes to resolve the controversy with a broad revision to Medicaid rules which allow all categories of advanced registered nurse practitioners (ARNP), as determined by the Board of Nursing Examiners to enroll as Medicaid providers and receive direct payment for their services. Current restrictions requiring an ARNP to be independently practicing are eliminated. The amendments also allow advanced registered nurse practitioners to serve as patient managers in the Medipass system. The rules do not allow all ARNPs’ to serve as patient managers----only those who serve as primary care providers. This same restriction is imposed on physicians. This means that eligibility to be an ARNP patient manager is limited to a: certified nurse midwife, certified family nurse practitioner, certified pediatric nurse practitioner, certified women’s health care nurse practitioner, certified adult nurse practitioner, or certified gerontological nurse practitioner.

INSPECTIONS AND APPEALS

2:40

Dispensing medication in care facilities, IAB Vol. XXVI, No. 7, ARC 2826, NOTICE.

In essence this proposal would prohibit long-term care facilities from limiting the means of dispensing resident medication. The proposed revision would allow care facility residents who have alternative sources of prescribed medications to utilize those sources and realize any cost savings that alternative sources offer. This is a companion to a proposal offered in June which would apply only to medications provided in bulk by the veterans administration.

As a safety and quality control measure care facilities often use unit dose medication to provide a single, pre-packaged dose direct from the container. The label of each unit dose contains the name of the medication, the quantity of therapeutically active ingredient, the manufacturer, the expiration date of the contents. There are also automated systems that can dispense medications. Both unit dose dispensing and automated systems are regulated by the Iowa Board of Pharmacy, 657 IAC Chapters 22 and 23. Although these systems can be more expensive to the patient, they are favored by the care facilities because they are less prone to error.

INSURANCE DIVISION

2:00

The Iowa FAIR plan, IAB Vol. XXVI, No. 07 ARC 2801B, NOTICE.

House File 599 has given legal structure to an existing regulatory program which facilitates reinsurance for property and casualty losses. The plan was first created by Executive Order in 1968 as a voluntary program. Recent events necessitated a statutory and mandatory framework and for that reason H.F. 599 was enacted. The plan is an insurer of last resort, providing property insurance for those turned down for other coverage; it is similar to assigned risk insurance. By law it cannot compete with regular insurance, which means that plan premiums are higher. Under the Act the fair plan is *not* an agency of state government; its’

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liabilities or debts are not the responsibility of the state. Every insurer licensed to do business in Iowa who writes property insurance is required to be a member of the FAIR plan. The plan is administered by a committee of insurers, under the supervision of the commissioner of insurance. The plan is funded through assessments to participating insurers; the assessments are based on the proportion of an insurer's weighted premiums written bears to the aggregate weighted premiums written by all insurers in the plan.

The rules set out underwriting examples of hazards, conditions or situations that illustrate whether a property risk is acceptable for insurance purposes. Once issued a policy cannot be cancelled or not renewed except for fifteen specific reasons set out in the rule.

INSURANCE DIVISION

2:00

Uniform Prescription Drug Information Card, IAB Vol. XXVI, No. 06 ARC 2743B, NOTICE.

Iowa Code Chapter 514L was enacted in 2001; it requires most insurers who provide a prescription benefit to provide their insured's a card or "other technology" containing uniform prescription drug information. The purpose of this new requirement is to increase patient convenience and ease the processing of claims for prescription benefits. The format and contents of this card must comply with the national council for prescription drug programs implementation guide.

IOWA FINANCE AUTHORITY

11:15

State housing trust, IAB Vol. XXVI, No. 07 ARC 2827B, NOTICE.

Senate File 458, §101 creates a "housing trust fund" within the IFA. Available funds are to be used for the development and preservation of affordable housing for low-income people. Money in the fund does not revert to the general fund. The fund consists of two programs: the local housing trust fund and the project based program. For each program applications are evaluated based on a series of weighted criteria, set out in the program.

60% of the fund (\$480,000) is to be allocated to the local housing trust. A local fund must have a local governing board responsible for coordinating local housing programs as recognized by the city, county, council of government or regional officials. No single award can exceed 10% of the balance of the fund, plus 10% of any deposits. In geographic areas of 100,000 or more population, awards may be up to \$200,000; for smaller areas the awards are limited to \$100,000. 40% of the moneys must serve extremely low-income people (30% of the *greater* of the county or the statewide metro or nonmetro median income). This requirement can be met through assistance to homeless or domestic violence shelters, transitional housing projects, housing for persons with disabilities, etc. A 25% local match is required.

40% of the fund is allocated to project based programs (\$320,000). The programs must be sponsored by local governments on non-profit organizations for the purpose of developing and preserving single and multi-family housing for low-income persons (80% of the median income). Owner-occupied rehabilitation is not eligible under this program. A 10% local match is required.

IOWA LOTTERY AUTHORITY

1:15

Organization and operation, IAB Vol. XXVI, No. 06 ARC 2771B, EMERGENCY.

Senate File 453 spun off the Lottery Division from the Department of Revenue, into an independent agency. This requires the updating and transferring of the existing rules---which is now done on an emergency basis. The filing does contain one significant addition: chapter 14, regulating "monitor vending machines". This was an issue before the ARRC in 2002, but has been resolved; by December of that year committee members were satisfied these new devices were lawful and appropriate.

This issue was first reviewed in February, 2002 when the division first considered electronic lottery ticket machines—Now termed monitor vending machines (MVM's). These machines are video

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versions of traditional pull-tab machines. They contain a roll of tickets; as those tickets are dispensed a reader displays the result on a CRT screen. A similar device does not contain tickets but prints them as dictated by a pre-determined pool. In either case there is no game or element of chance—both machines simply sell tickets. This is critical because Iowa Code §99E.9(3)"b" prohibits any electronic device which "*upon winning a game*"... *immediately dispenses...a ticket, credit or token which is redeemable for cash or a prize.*"

These MVM's do not fall under this prohibition because they do nothing but dispense a ticket and display the results on a screen; "winning a game" is not part of the function.

PUBLIC HEALTH DEPARTMENT

2:20

Early hearing screening, IAB Vol. XXVI, No. 07, ARC 2820B, NOTICE.

The department proposes a new program requiring all newborn infants to be screened for hearing defects. This new program is mandated by House File 454; however, parents may decline the services. The expectation is that with early detection and treatment the long-term outcomes can be improved. Both hospitals and birthing centers must maintain screening programs; hospitals must provide the screening; while birthing centers must arrange for the service. For births under other circumstances, the attending physician or other health care professional must make the required arrangements. The results of the screenings must be forwarded to the department. The proposal also sets out a "protocol", recommending a variety of diagnostic tools to be used following the initial screening.

UTILITIES DIVISION

9:50

Alternate energy purchase program, IAB Vol. XXVI, No. 06, ARC 2772B, ADOPTED.

Commencing January 1, 2004 Iowa Code §476.46 requires all Iowa utilities to offer an "alternate energy purchase program" to customers, based on energy produced by alternate energy production facilities in Iowa. Electric utilities must

file plans for alternate energy purchase programs offered pursuant to this section. Rate-regulated electric utilities must allow customers to contribute *voluntarily* to the development of alternate energy in Iowa; non-rate regulated utilities must offer alternate energy purchase programs at rates determined by those utilities and inform the utilities board of that rate.